



ATTACHMENT TO PROOF OF CLAIM OF CHASE BANK USA, N.A.

THE CLAIMS

1. The debtor, Circuit City Stores, Inc. ("Debtor") is indebted to Chase Bank USA, N.A. ("Chase") for defense and indemnity ("Claims") in regard to the claims and causes of action as set forth in the complaint filed on June 26, 2006 in the Superior Court of the State of California for the County of Los Angeles, Central District, in Davis v. Chase Bank USA, N.A., et al., Case No. BC354564 ("Underlying Complaint"), and removed on August 1, 2006 to United States District Court for the Central District of California, Case No. CV06-4804 DDP (PJWx) ("California Court"). True and correct copies of the Underlying Complaint and the Notice of Removal are attached hereto as Exhibits 1 and 2 and incorporated in full by reference in this proof of claim ("Proof of Claim").

2. The Underlying Complaint centers on the Debtor and its advertising to its customers. The specific advertising challenged in the Underlying Complaint was produced by Debtor and not by Chase. (Underlying Complaint, Exhibit A.) Both the Underlying Complaint and the California Court have stated that Debtor's advertising is at the core of this litigation – the issue being whether Debtor's advertising was misleading and deceptive. For this reason, Chase has valid claims for defense and indemnity against Debtor, the value of which depends on the outcome of proceedings in the California Court. Debtor acknowledges Chase's indemnity claim, as reflected on Debtor's Schedule F filed on docket entry number 1130, page 149 of this bankruptcy.

3. Although Chase currently is precluded from pursuing the Claims due to Debtor's bankruptcy filing and the automatic stay provisions of 11 U.S.C. Section 362(a), Chase reserves all rights including, without limitation, rights pertaining to the Underlying Complaint.

RESERVATION OF RIGHTS TO AMEND AND/OR
TO SUPPLEMENT THIS PROOF OF CLAIM

4. Chase reserves the right to amend and/or supplement this Proof of Claim and to set forth in additional detail the basis and nature of the Claims, to assert pre- and post-petition claims held by Chase other than those set forth herein. Chase further reserves the right to assert a claim for payment under 11 U.S.C. Section 503(b).

Exhibit 1

90232

Complex

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FILED
LOS ANGELES SUPERIOR COURT

JUN 26 2006

JOHN A. CLARKE, CLERK

BY ELLEN M. MONTANA, DEPUTY
CLERK

6 Attorneys for Plaintiff GARY DAVIS,
individually and on behalf of himself, and
7 as Private Attorney General and on behalf of
all others similarly situated
8

Case assigned
to Judge

D-324 Victoria Chaney

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

UNLIMITED JURISDICTION

D-324

12 GARY DAVIS, an individual; on behalf of
13 himself, and as PRIVATE ATTORNEY
14 GENERAL, and on behalf of all others
similarly situated,

15 Plaintiff,

16 v.

17 CHASE BANK U.S.A., N.A., a Delaware
corporation; CIRCUIT CITY STORES, INC.,
18 a Virginia corporation, and DOES 1 through
50, inclusive,
19

20 Defendants.

Case No. 80354564

CLASS ACTION COMPLAINT FOR:

- (1) Violation of the Consumers Legal Remedies Act;
- (2) Violation of the California Business and Professions Code Section 17200 et seq.: Unlawful and Unfair Business Practices;
- (3) Violation of Business & Professions Code §17500 (False Advertising);
- (4) Fraud and Deceit;
- (5) Breach of Contract;
- (6) Breach of the Implied Covenant of Good Faith and Fair Dealing;
- (7) Unjust Enrichment.

21
22 Plaintiff Gary Davis, on behalf of himself, and all others similarly situated, for his complaint
23 CHASE BANK U.S.A., N.A. (Chase Bank) and CIRCUIT CITY STORES, INC. (Circuit City),
24 complains and alleges as follows:

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FILED: 06/26/06 LEARNER:
RECEIVED: 06/26/06 03:59:22 PM
DATE FILED: 06/26/06 03:57:33 PM
FILING: 1320.00
CHECK: 550.00
CASH: 550.00
DAMAGES: 550.00
FILING: 0310

1 INTRODUCTION

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3 1. This case arises from Chase Bank's fraudulent and unfair business practice of
4 charging its California credit card holders finance charges in connection with purchases at Circuit
5 City advertised as "no interest, no payment," "no interest with minimum monthly payment," or
6 "interest and payment free" (collectively "Promotional Purchase"). Plaintiff, on behalf of himself
7 and all individuals similarly situated, seeks damages and equitable relief for violations of the
8 California Consumers Legal Remedies Act, the *California Business and Professions Code* (Unfair
9 Business Practices and False Advertising), for fraud and deceit, and for breach of contract and breach
10 of the covenant of good faith and fair dealing. Chase Bank's and Circuit City's fraudulent and
11 unfair business practices violate the rights of unsuspecting California consumers throughout the
12 state, for which California consumer protection laws were designed.

13
14 THE PARTIES

15 2. Plaintiff, Gary Davis ("Plaintiff") is now, and at all relevant times was, a resident of
16 the County of Los Angeles, State of California.

17 3. At all relevant times, the class of Plaintiffs on behalf of which Plaintiff is bringing
18 this suit, were residents of the State of California. Such persons shall hereinafter be referred to as
19 the "Class" or "Class Members."

20 4. Plaintiff is informed and believes, and based thereon alleges that Defendant Chase
21 Bank is a corporation, organized and existing under the laws of the State of Delaware, duly qualified
22 as a foreign corporation to transact business in the State of California, and doing business
23 throughout the State of California. Plaintiff is informed and believes, and based thereon alleges, that
24 Defendant Chase Bank is presently and/or has engaged in business in the County of Los Angeles,
25 State of California.

26 5. Plaintiff is informed and believes, and based thereon alleges that Defendant Circuit
27 City is a Virginia corporation that owns and operates numerous retail stores in the State of
28 California, including multiple locations in Los Angeles County.

1 6. At all times relevant herein, Defendants Chase Bank and Circuit City offered a credit
2 card through Circuit City ("Circuit City Rewards Card"). The Circuit City Rewards Card conferred
3 certain benefits to consumers who utilized the credit card to make their purchases such as earning
4 reward points redeemable at Circuit City stores. Another benefit of the Circuit City Rewards Card
5 was access to Defendants' advertised promotion of "no interest, no payment" for a specified period
6 of time on certain types of Circuit City purchases. ("Promotional Purchases")

7
8 7. Plaintiff is informed and believes, and based thereon alleges that at all times herein
9 mentioned, Defendant Chase Bank, Defendant Circuit City and DOES 1 through 50, inclusive
10 (hereinafter jointly referred to as "Defendants"), are each responsible in some manner for the
11 transactions, events and occurrences herein alleged and that damages herein alleged were
12 proximately caused thereby. Plaintiff is informed and believes, and based thereon alleges that each
13 of the Doe Defendants was intentionally, negligently, or in some other manner the cause, or
14 contributing cause of, or otherwise responsible for the events and happenings alleged in this
15 complaint and for Plaintiff's injuries and damages and those of the Class. Plaintiff will seek leave to
16 amend this complaint to allege the true names and capacities of each such Doe Defendant, together
17 with such additional allegations as may be appropriate, when their names, capacities, and the nature
18 of their involvement have been ascertained.

19 8. Plaintiff is informed and believes and thereon alleges that at all times herein
20 mentioned, Defendants, and each of them, were the agents, joint venturers, trustees, servants,
21 partners, alter-egos, parent corporations, contractors, and/or employees of each of the remaining
22 Defendants, and that the acts and/or omissions herein alleged were done by them acting individually,
23 through such capacity or through the scope of their authority, and that such conduct was thereafter
24 ratified by the remaining Defendants.

25 9. At all relevant times, Defendants, and each of them, solicited business from residents
26 and other individuals within the State of California, conducted business with consumers in the State
27 of California, conducted business with Plaintiff and others similarly situated with him herein, and
28 solicited business from Plaintiff and others similarly situated with Plaintiff, said business being the

1 subject matter of this complaint.

2 **CLASS ACTION ALLEGATIONS**

3 10. Plaintiff brings this class action, on behalf of himself and all others similarly situated
4 in California during all or part of the class period, as more fully explained below. The questions of
5 law or fact common to the class predominate over questions affecting the individual members and,
6 on balance, a class action is superior to other methods available for adjudicating the controversy.

7 11. The proposed class Plaintiff seeks to represent is presently defined as follows:

8 All persons who, in the past four years, used their Circuit City Rewards Card to

9 (a) make a Promotional Purchase in California;

10 (b) had made the minimum payment, or greater payment on their prior
11 statement closing balance ("Payment"); and

12 (c) were assessed a finance charge on their prior balance without Chase
13 having applied that Payment to their prior balance because Chase Bank applied the payment to the
14 Promotional Purchase rather than to the prior balance.

15 12. There is a well-defined community of interest in the litigation and the proposed class
16 is easily ascertainable.

17 13. Numerosity: The Plaintiff Class is potentially so numerous that the individual joinder
18 of all members is impracticable under the circumstances of the case. While the exact number of
19 class members is unknown to Plaintiff at this time, Plaintiff is informed and believes and thereon
20 alleges that Defendants' Circuit City Reward Card Promotional Purchase program was a widespread
21 program marketed and promised to numerous individuals within the customer base of Defendants.

22 14. Common Questions Predominate: Common questions of law and fact exist as to all
23 class members, and predominate over any questions that affect only individual members of the class.
24 The common questions of law and fact include, but are not limited to:

25 (a) Whether Defendants have engaged in practices proscribed by the Consumer
26 Legal Remedies Act, *Civil Code* section 1770, subsection (a)(9), by "advertising goods or
27 services with intent not to sell them as advertised";

28 (b) Whether Defendants have engaged in practices proscribed by the Consumer

1 Legal Remedies Act, *Civil Code* section 1770, subsection (a)(13), by "making false or
2 misleading statements of fact concerning reasons for, existence of, or amounts of price
3 reductions";

4 (c) Whether Defendants have engaged in practices proscribed by the Consumer
5 Legal Remedies Act, *Civil Code* section 1770, subsection (a)(14), by "representing that a
6 transaction confers or involves rights, remedies or obligations which it does not have or
7 involve, or which are prohibited by law";

8 (d) Whether Defendants have engaged in practices proscribed by the Consumer
9 Legal Remedies Act, *Civil Code* section 1770, subsection (a)(19), by "inserting an
10 unconscionable provision in the contract";

11 (e) Whether Defendants have violated the Consumer Legal Remedies Act, *Civil*
12 *Code* section 1750 et seq., by engaging in other and/or additional practices proscribed
13 therein;

14 (f) Whether Defendants' activities related to its solicitation for consumer
15 purchases of promotional Circuit City products with the Circuit City Rewards Card,
16 constitutes false or misleading advertising in violation of *Business and Professions Code*
17 section 17500;

18 (g) Whether Defendants' conduct is "unlawful," "unfair" or "fraudulent" within
19 the meaning of California's Unfair Business Practices Act, *Business and Professions Code*
20 section 17200, et seq.

21 (h) Whether in their uniform, written credit applications and marketing
22 materials, Defendants have failed to disclose material terms of Defendants' Promotional
23 Purchase offer;

24 (i) Whether Defendants made uniform, material false representations to the effect
25 that consumers would not be charged interest on Promotional Purchases.

26 15. Typicality: Plaintiff's claims are typical of the claims of the members of the Plaintiff
27 Class. Due to Defendants' common course of conduct, Plaintiff and all members of the Plaintiff
28 Class have been unwittingly forced to pay off the Promotional Purchases prior to the expiration of

1 the advertised grace period for such payments and have been assessed a finance charge or charges in
2 connection with a Circuit City purchase advertised as "interest and payment free" if made with their
3 Circuit City Rewards Card.

4 16. Adequacy: Plaintiff will fairly and adequately protect the interests of the members of
5 Plaintiff Class. Plaintiff resides in California and has been charged finance fees in connection with
6 one or more Promotional Purchases. Plaintiff has retained counsel who have substantial experience
7 in complex civil litigation and class actions.

8 17. Superiority: The class action is superior to other available means for the fair and
9 efficient adjudication of the claims of Plaintiff. The damages suffered by each individual Class
10 Member may be limited. Damages of such magnitude are small given the burden and expense of
11 individual prosecution of the complex and extensive litigation necessitated by Defendants' conduct.
12 Further, it would be virtually impossible for the members of the Class individually to redress
13 effectively the wrongs done to them. Even if the Class Members themselves could afford such
14 individual litigation, the court system could not. Individualized litigation presents a potential for
15 inconsistent or contradictory judgments. Individualized litigation increases the delay and expense to
16 all parties and the court system presented by the complex legal and factual issues of the case. By
17 contrast, the class action device presents far fewer management difficulties, and provides the
18 benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.
19 Certification is also appropriate given the anticipated need to create a fluid recovery fund.

20 18. Plaintiff is unaware of any particular difficulties that are likely to be encountered in
21 the management of this action that would preclude its maintenance as a class action.

22 **GENERAL ALLEGATIONS COMMON TO ALL COUNTS**

23 19. Defendants solicited Plaintiff and others similarly situated to make purchases at
24 Circuit City using Defendants' Circuit City Rewards Card and in exchange for using its services,
25 Plaintiff and others similarly situated were eligible to receive an interest and payment free period in
26 which to pay off the balance on certain purchases described herein as "Promotional Purchases."

27 20. From time to time, Defendants advertise Promotional Purchases in the Circuit City
28 Stores, Circuit City Rewards Card applications, mailers, and newspapers, among other advertising

1 means. The Promotional Purchase advertisements offer "no interest, no payments" for a variable
2 period based on the amount of the purchase. For example, a Circuit City Rewards Card promotional
3 item offered to consumers in 2006, states in large writing: "No interest! No payments! For six
4 months when you spend \$499 or more. For 90 days when you spend \$299 or more." "It is easy to
5 take advantage of this offer! When you make a purchase with your Circuit City credit card, present
6 this certificate to the store associate to scan." (A true and correct copy of this Circuit City Rewards
7 Card promotional material is attached hereto as Exhibit A).

8 21. Plaintiff is informed and believes and thereon alleges that this promotional material
9 as well as variations of this promotional material, advertising "no interest, no payment" for a
10 specified period of time, was provided or made available, from time to time, to each of the Class
11 Members.

12 22. On March 3, 2006, Plaintiff purchased a television set from Circuit City, charging
13 \$2,000 to his Chase Circuit City Rewards Card. Although Plaintiff did not request that this item be
14 treated as a Promotional Purchase, Defendants nevertheless automatically treated this item as a
15 Promotional Purchase, with the term of no interest with minimal payment until January 2008.

16 23. Prior to the purchase of the subject television, Defendant Chase Bank billed Plaintiff
17 for purchases made between January 14, 2006, and February 13, 2006 ("February Statement"), on
18 his Circuit City Rewards Card. Payment was due by March 10, 2006, and if Payment was posted by
19 March 10, 2006, no finance charge should be applied because the balance would have been paid in
20 full. Alternatively, if partial Payment was made either of the minimum amount or a greater amount,
21 then a finance charge should be applied only against the remaining balance after subtracting the
22 Payment made. Plaintiff returned two items and made two on-line payments consisting of the total
23 amount owing on March 4, 2006, and March 6, 2006, thereby paying the February Statement
24 balance in full and on time.

25 24. Based on the language appearing in each of his monthly statements, Plaintiff was
26 informed and believed that he would not be assessed a finance charge if his monthly billings were
27 paid in full, or that any finance charge would be based only on the remaining balance after any
28 partial Payment had been subtracted from the outstanding balance. Each billing statement received

1 by Plaintiff states: "[W]e do not charge periodic finance charges on new purchases billed during the
2 billing cycle if we receive payment of your New Balance by the date and time your payment is due
3 as shown on your billing statement and we received payment of your New Balance on your previous
4 billing statement by the date and time your payment was due as shown on that billing statement."
5 (A true and correct copy of the February Statement is attached hereto as Exhibit B).

6 25. Sometime after March 13, 2006, Plaintiff received his monthly statement from
7 Defendant Chase Bank for purchases made between February 14, 2006, and March 13, 2006
8 ("March Statement"). Although plaintiff had paid the February Statement balance in full and in a
9 timely manner, Defendant Chase Bank assessed a \$77.25 finance charge which appeared on the
10 March Statement. (A true and correct copy of the March Statement is attached hereto as Exhibit C).

11 26. Plaintiff is informed and believes, and based thereon alleges that he was assessed the
12 \$77.25 finance charge because his entire February Statement Payment was applied against the
13 \$2,000 Promotional Purchase, payment for which was not due, instead of to the February Statement
14 balance, thereby leaving a balance due against which finance charges were charged. The \$2,000
15 charge for the television was made subsequent to the issuance of the February Statement, and no
16 Payments of any kind were due and owing for the Promotional Purchase until January 2008.
17 Nevertheless, Chase Bank allocated the entire \$1,736.91 that Plaintiff paid on his February
18 Statement to the March 3, 2006, Promotional Purchase, even though, as advertised, no amounts were
19 due and owing on that item.

20 27. Chase Bank assessed similar finance charges against Plaintiff on at least two (2) other
21 prior occasions involving the same type of Promotional Purchase, where payments were not due for
22 a specified period of time, but Chase Bank nevertheless allocated all of Plaintiff's payments to the
23 Promotional Purchase. Plaintiff is informed and believes, and based thereon alleges that thousands
24 of other similarly situated Class Members made similar types of Promotional Purchases at Circuit
25 City using Defendants' Circuit City Rewards Card, which Defendants treated as Promotional
26 Purchases subject to terms of "no interest, no payment" for a specified period of time, but were
27 thereafter charged a finance charge in a manner similar, or identical to that of Plaintiff.

28 28. The "no interest, no payment" promotional offers fail to disclose that all payments

1 made by the consumer on his or her regular monthly statement are given priority of payment to the
2 promotional item, even if not yet billed and even if not due for many months.

3 29. The promotional offer conveys that the consumer will receive a benefit of a grace
4 period of anywhere from a few months to two (2) years or more. Plaintiff is informed and believes,
5 and based thereon alleges, however, that the offer is a scam used to induce consumers into believing
6 that they will have an extended time period in which to pay off their Promotional Purchases, when in
7 fact, the consumer has less time to pay off the Promotional Purchases due to Defendants' practice of
8 allocating consumers' Payments as described herein.

9 30. Plaintiff is informed and believes, and based thereon alleges that Defendant Chase
10 Bank knows of the terms and conditions of such Promotional Purchases, and that Chase Bank's
11 practice of prioritizing the allocation of credit card payments to purchases not yet due and owing is
12 deceptive, misleading, fraudulent, unfair and in violation of California law. Plaintiff further is
13 informed and believes, and based thereon alleges that Defendant Chase Bank's practice of
14 prioritizing the allocation of credit card payments to purchases advertised as "interest and payment
15 free" is especially egregious and violative of California law as this practice directly contradicts the
16 concept of "interest and payment free."

17 31. Plaintiff, on behalf of himself and all others similarly situated, seeks damages and
18 equitable relief, including restitution, for violations of the California Consumers Legal Remedies
19 Act, the *California Business and Professions Code* (Unfair Business Practices and False
20 Advertising), Fraud and Deceit, and breach of contract and of the covenant of good faith and fair
21 dealing. On behalf of himself and the proposed Class Members, and to the extent appropriate, on
22 behalf of the general public of California, Plaintiff seeks, among other things, declaratory relief,
23 injunctive relief, equitable relief, including restitution and disgorgement, and actual and punitive
24 damages, and attorney's fees.

25 **FIRST CAUSE OF ACTION**

26 (Violation of the Consumers Legal Remedies Act)

27 (Against All Defendants)

28 32. Plaintiff incorporates by reference paragraphs 1 - 31 above as though fully set forth

1 herein.

2 33. Defendants are "persons" and provide "goods" and "services" within the meaning of
3 the *Civil Code* sections 1761(c) and 1770.

4 34. Purchasers of Circuit City Promotional Purchases with the Circuit City Rewards
5 Card, including Plaintiff and Class Members, are "consumers" within the meaning of the *Civil Code*
6 section 1761(d) and 1770. Plaintiff's and each Class Member's Promotional Purchase with the
7 Circuit City Rewards Card constitutes a "transaction" within the meaning of *Civil Code* sections
8 1761(e) and 1770.

9 35. As set forth herein, Defendants' acts, practices, representations, omissions, and
10 course of conduct with respect to advertising and selling items as interest and payment free violates
11 section 1770 (a)(9), (13), (14), and (19) of the Consumers Legal Remedies Act in that: (a)
12 Defendants advertised goods or services with the intent not to sell them as advertised; (b)
13 Defendants made misleading statements of fact concerning reasons for, existence or amounts of
14 price reductions; (c) Defendants represented that the transaction conferred or involved rights,
15 remedies or obligations that it did not have or involve; and (d) Defendants inserted an
16 unconscionable provision in the contract.

17 36. This action shall constitute notice to Defendants pursuant to *California Civil Code*
18 section 1782 of the unlawful, unfair and fraudulent business practices as complained herein and
19 formal demand that Defendants: (1) cease and desist all advertising, promotional and sales activities
20 and practices described herein; (2) cease the promotion of its "interest and payment free" credit card
21 through the use of deceptive and misleading advertising devices as described herein; (3) cease the
22 practice of prioritizing the application of consumers' credit card payments to Promotional
23 Purchases; and (4) disclose to all consumers' Defendants' deceptive and illegal practices.

24 37. Should Defendants herein fail to comply with the demands as stated above, Plaintiff
25 shall file a First Amended Complaint seeking an order, pursuant to *California Code of Civil*
26 *Procedure* section 1780 et seq.: (1) directing Defendants to cease and desist all advertising,
27 promotional and sales activities and practices described herein; (2) enjoining Defendants from the
28 promotion of its "interest and payment free" credit card through the use of deceptive and misleading

1 advertising devices as described herein; (3) directing Defendants to disgorge, for the benefit of
2 Class Members, its profits and compensation emanating from its "interest and payment free"
3 scheme, and/or make full restitution to Plaintiff and Class Members; and (4) enjoining Defendant
4 Chase Bank from prioritizing the application of consumers' credit card payments to Promotional
5 Purchases. Plaintiff's Amended Complaint shall also seek compensatory and punitive damages,
6 costs of litigation, attorneys' fees and such other relief as is authorized under applicable provisions
7 of the CLRA.

8 **SECOND CAUSE OF ACTION**

9 (For Violation of the *California Business and Professions Code*

10 *Section 17200 et seq.*: Unlawful and Unfair Business Practices)

11 (Against All Defendants)

12 38. Plaintiff incorporates by reference paragraphs 1 - 37 above as though fully set forth
13 herein. Plaintiff has suffered injury in fact and has suffered financial loss as a result of Defendants'
14 conduct as alleged in this cause of action.

15 39. Defendants' acts, conduct and practices as described herein constitute unlawful
16 business acts and practices within the meaning of *California Business and Professions Code*
17 sections 17200 et seq.

18 40. Defendants' acts, conduct and practices were unlawful, in that Defendants violated
19 the Consumers Legal Remedies Act, as alleged herein.

20 41. Defendants' acts, conduct and practices, as described herein, constitute unfair,
21 fraudulent, and deceptive business acts and practices within the meaning of *California Business and*
22 *Professions Code* sections 17200 et seq.

23 42. Defendants' acts, conduct and practices, as alleged herein, were unfair, in that any
24 utility for Defendants' conduct is outweighed by the gravity of the consequences to Plaintiff, Class
25 Members, and the general public, and/or Defendants' conduct is immoral, unethical, oppressive,
26 unscrupulous or substantially injurious to Plaintiff, Class Members and the general public.

27 43. Defendants' acts, conduct and practices, as alleged herein, were fraudulent, in that
28 they were likely to and did deceive Plaintiff, Class Members and the general public, and Defendants

1 engaged in such acts, conduct, and practices knowingly.

2 44. Defendants' unfair, fraudulent, and deceptive business acts and practices are
3 described herein and include, but are not limited to, the following:

4 (a) Advertising promotional items as interest and payment free when purchased
5 with a Circuit City Rewards Card when in fact, interest and finance charges were frequently
6 applied;

7 (b) Charging a finance fee despite Payment of the monthly balance in part or in
8 full, without deducting the Payment made before assessing any finance charge; and

9 (c) Applying monthly Payments to Promotional Purchases not yet billed or owing
10 instead of to the balance as billed in the monthly statement due.

11 45. As a direct and proximate result of Defendants' unfair, unlawful and fraudulent
12 business practices as alleged herein, Defendants were able to: (a) issue more charge cards to Circuit
13 City customers than they otherwise would have; (b) receive more credit card purchases for Circuit
14 City products than they otherwise would have; and/or (c) charge more finance charges than they
15 otherwise would have, and accordingly, Defendants received and are in possession of excessive and
16 unjust revenues and profits.

17 46. Plaintiff, on behalf of himself and all others similarly situated in California, and
18 where appropriate, on behalf of the general public of California, seeks an order including, but not
19 limited to (1) directing Defendants to cease and desist all advertising, promotional and sales
20 activities and practices described herein; (2) enjoining Defendants from the promotion of their
21 "interest and payment free" credit card through the use of deceptive and misleading advertising
22 devices as described herein; (3) directing Defendants to disgorge, for the benefit of Class Members,
23 their profits and compensation emanating from their "interest and payment free" scheme, and/or
24 make full restitution to Plaintiff and Class Members; and (4) enjoining Defendant Chase Bank from
25 prioritizing the application of consumers' credit card payments to Promotional Purchases. Plaintiff
26 also seeks any other relief the Court deems acceptable, in accordance with section 17203 of the
27 Business and Professions Code. Plaintiff also seeks costs of litigation, attorneys' fees pursuant to
28 *California Code of Civil Procedure* §1021.5, and such other relief as the Court deems proper.

THIRD CAUSE OF ACTION

(False Advertising, Violation of *Business & Profession Code* §17500)

(Against All Defendants)

47. Plaintiff incorporates by reference paragraphs 1 – 46 above as though fully set forth herein.

48. The standardized advertising and written and oral promotional material and all other written and oral promotional efforts undertaken by Defendants constitute advertising services and commercial statements, disseminated by Defendants, which contained statements that are untrue and/or misleading, or which omitted material information, and which are known, or by the exercise of reasonable care should have been known by Defendants to be deceptive, in violation of *California Business and Professions Code* section 17500, et seq. and other similar state false advertising statutes. Plaintiff and Class Members are accordingly entitled to equitable and injunctive relief, on behalf of themselves and all others similarly situated, and request the following equitable and injunctive relief:

(a) That Defendants be ordered to cease and desist all advertising, promotional and sales activities and practices described herein;

(b) That Defendants be enjoined from the promotion of its "interest and payment free" credit card through the use of deceptive and misleading advertising devices as described herein;

(c) That Defendants be ordered to disgorge, for the benefit of Class Members, their profits and compensation emanating from its "interest and payment free" scheme, and/or make full restitution to Plaintiff and Class Members.

(d) That Defendant Chase Bank be enjoined from prioritizing the application of consumers' credit card payments to Promotional Purchases.

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1 **FOURTH CAUSE OF ACTION**

2 (Fraud and Deceit)

3 (Against All Defendants)

4 49. Plaintiff incorporates by reference paragraphs 1 – 48 above as though fully set forth
5 herein.

6 50. At various times, as set forth in this Complaint, Defendants made material and
7 intentional misrepresentations and false promises to Plaintiff, and others similarly situated while
8 fraudulently concealing other material facts from Plaintiff. The material, fraudulent
9 misrepresentations, false promises, and fraudulent omissions include, but are not limited to, the
10 following:

11 (a) Uniform, written solicitations to consumers, which solicitations uniformly
12 promised that certain promotional purchases made at Circuit City using the Circuit City
13 Rewards Card in excess of \$250 would receive an interest and payment free period in which
14 to payoff their purchase;

15 (b) Uniform failure to disclose in Defendants' written solicitations to consumers
16 that Defendant Chase Bank would actually charge a finance charge even when customers
17 paid their prior balance in full, or would otherwise charge a finance charge on any remaining
18 balance without first deducting any partial Payment made;

19 (c) Failure to clearly and adequately disclose that Chase Bank would allocate
20 Payments to Promotional Purchases, even if no payments were due for many months, thus
21 causing customers who believed they were paying their current balances to actually incur
22 excessive finance charges.

23 51. While Defendants were making the enumerated, material fraudulent and deceitful
24 misrepresentations and omissions, they knew the true facts to be the opposite thereof.

25 52. Defendants knew that each of these enumerated, material misrepresentations and
26 omissions were deceitful and fraudulent at the time that they were made, or, at the minimum, made
27 the fraudulent misrepresentations and omissions with a reckless disregard for the true facts.

28 53. Defendants made its material fraudulent misrepresentation and fraudulently

1 concealed material information for the primary purposes of inducing Plaintiff and others similarly
2 situated to enter into a Circuit City Promotional Purchase using the Circuit City Rewards Card.
3 Specifically, Defendants purposefully and fraudulently concealed that Promotional Purchases were
4 given priority of payment, even if not yet billed and owing, thus making the promise of "interest and
5 payment free" illusory.

6 54. Plaintiff and other Class Members were unaware of the true facts that were concealed
7 by Defendants' material fraudulent misrepresentations and omissions, consummated the proposed
8 Promotional Purchase, having no reason to suspect that the transactions were predicated upon such
9 material, deceitful and fraudulent misrepresentations and omissions.

10 55. As a direct and proximate result of the events and material, deceitful and fraudulent
11 misrepresentations described herein, Plaintiff and other Class Members have been damaged as may
12 be shown according to proof at the time of trial.

13 56. In doing the acts herein alleged, Defendants acted with malice, oppression, and fraud
14 in order to induce Plaintiff and Class Members into making Circuit City purchases with the Circuit
15 City Rewards Card pursuant to which Defendants would profit from the collection of undisclosed
16 fees. Such despicable conduct, in willful and conscious disregard of Plaintiff's rights, justifies an
17 award of exemplary damages against these Defendants in amounts as may be shown in according to
18 proof at the time of trial.

19
20 **FIFTH CAUSE OF ACTION**

21 **(Breach of Contract)**

22 **(Against Defendant Chase Bank and Does 1 - 50)**

23 57. Plaintiff incorporates by reference paragraphs 1 - 56 above as though fully set forth
24 herein.

25 58. Defendant Chase Bank offered Plaintiff and Class Members a no interest, no payment
26 grace period on Promotional Purchases made using their Circuit City Rewards Card.

27 59. Plaintiff and Class Members made Promotional Purchases as offered by Defendant
28 Chase Bank.

1 60. Defendant Chase Bank breached these contracts by prioritizing the allocation of
2 credit card Payments to purchases offered and accepted as interest and payment free ahead of non-
3 promotional items appearing on the monthly statement. Defendant Chase Bank further breached
4 these contracts by charging an interest fee on balances that remained due to this allocation of
5 Payments.

6 61. By reason of Defendants' breach of Plaintiff's and other Class Members' respective
7 contracts, Plaintiffs and other Class Members have been damaged in the manner set forth herein, in
8 an amount to be determined at trial.

9
10 **SIXTH CAUSE OF ACTION**

11 (Breach of the Implied Covenant of Good Faith and Fair Dealing)

12 (Against Defendant Chase Bank and Does 1 – 50)

13 62. Plaintiff incorporates by reference paragraphs 1 – 61 above as though fully set forth
14 herein.

15 63. Every contract imposes upon each party a duty of good faith and fair dealing in its
16 performance. The Promotional Purchases made by Plaintiff and Class Members with their Circuit
17 City Rewards Card contained an implied covenant of good faith and fair dealing. The covenant
18 requires that neither party to the Promotional Purchase agreement do anything to infringe upon the
19 other party's rights to the benefits of the agreement.

20 64. Defendant Chase Bank's conduct, as set forth herein, has breached each of the
21 implied covenants of good faith and fair dealing.

22 65. For example, Defendant Chase Bank has materially breached the implied covenant of
23 good faith and fair dealing by:

24 (a) Promising purchasers of Circuit City Promotional Purchases they would
25 receive a payment free period in which to payoff their purchase, when, in fact, Defendant
26 Chase Bank prioritized the allocation of Payments to Promotional Purchases;

27 (b) Promising purchasers of Circuit City Promotional Purchases they would
28 receive an interest free period in which to payoff their purchase, when, in fact, Defendant

1 Chase Bank charged interest fees in connection with Promotional Purchases.

2 66. As a direct result of material breaches of the implied covenant of good faith and fair
3 dealing by Defendants, as set forth herein, Plaintiffs have been damaged as may be shown according
4 to proof at the time of trial.

5
6 SEVENTH CAUSE OF ACTION

7 (For Unjust Enrichment)

8 (Against Defendant Chase Bank and Does 1- 50)

9 67. Plaintiff incorporates by reference paragraphs 1 - 66 above as though fully set forth
10 herein.

11 68. As set forth fully herein, Defendants were not and are not entitled to a finance fee in
12 connection with Promotional Purchases.

13 69. Thus, Defendants have retained and continue to retain money belonging to Plaintiff
14 and the Class Members.

15 70. If Defendants are permitted to retain this money, they will be unjustly enriched at the
16 Plaintiffs' expense.

17
18 WHEREFORE, Plaintiff, on Plaintiff's own behalf and on behalf of the Class Members,
19 prays for judgment as follows:

20 1. For an order certifying the Plaintiff Class and appointing Plaintiff and his counsel to
21 represent the Class;

22 2. For an order awarding compensatory damages in an amount which may be proven at
23 trial, together with interest thereon;

24 3. For an order awarding restitution and/or disgorgement and other equitable relief as
25 the Court deems proper;

26 4. For an order awarding exemplary damages in an amount to deter and punish;

27 5. For an order awarding pre-judgment and post-judgment interest, as well as their
28 reasonable attorneys' and experts' witness fees and other costs;

1 reasonable attorneys' and experts' witness fees and other costs;

2 6. For an order enjoining Defendants from continuing to engage in unfair business
3 practices and false advertising; and,

4 7. For an order awarding such other and further relief as this Court may deem just and
5 proper.

6
7 DATED: June 26, 2006

ROXBOROUGH, POMERANCE & NYE LLP

8
9 By: 

DREW E. POMERANCE

MICHAEL G. KLINE

ERIN M. LaBRACHE

Attorneys for Plaintiff GARY DAVIS,
individually and on behalf of himself, and
as Private Attorney General and on behalf of
all others similarly situated

Exhibit A

No Interest! No Payments!


**For 6 Months
When You
Spend
\$499
or more***



**For 90 Days
When You
Spend
\$299
or more***

* See reverse side for details.

**Store Associate: Please scan this
barcode for the 90 Day/\$299 offer**



50YCRFINANCE03N


**It's easy to take advantage
of this offer!**

**When you make a purchase
with your Circuit City credit card,
present this certificate
to the store associate to scan.**

* Offers apply to in-store purchases charged to your Circuit City credit card account and are subject to credit approval. For any item \$499 and above, to avoid finance charges, the purchase price must be paid in full within 90 days of the purchase date or on the 1st day from the purchase date. Finance charges will be assessed at the Deferred/Amortized Finance Charge APR from the date of purchase. For any item \$299 and above, to avoid finance charges, the purchase price must be paid in full within 90 days of the purchase date or on the 1st day from the purchase date. Finance charges will be assessed at the Deferred/Amortized Finance Charge APR from the date of purchase. Minimum monthly payments are required on your other account balances. As of August 1, 2008 the following offer and terms apply to in-store applicants and are subject to change. For new Circuit City Rewards Card accounts: The purchase APR is 26.26% or 24%, the Deferred/Amortized Finance Charge APR is 22.74% or 24% and the default (not stated) interest APR is 24.74% or 26.26%, depending on your credit qualifications. Late Payment & Returned Goods fees: \$25. Minimum Finance Charge, if any assessed: \$1.00. Offer expires 3/31/09. Existing cardholders should see their cardholder agreement for applicable interest rates and charges. The Circuit City Rewards Card is issued by Chase Bank USA, N.A.

50YCRFINANCE03N

**Store Associate: Please scan this
barcode for the 6 Month/\$499 offer**



50YCRFINANCE03N

EXH A



Statement

410414001493403900001100000002752685

CHASE CARDMEMBER SERVICE
PO BOX 100044
KENNESAW, GA 30156-9244

ACCOUNT # 4104 1400 1493 4039
NEW BALANCE \$2,752.68
PAYMENT DUE DATE 03/10/05
MINIMUM PAYMENT DUE \$110.00



CHASE CARDMEMBER SERVICE
PO BOX 94010
PALATINE, IL 60094-4010

MAIL
CHECK
TO:

MAKE CHECKS PAYABLE TO CHASE



GARY J DAVIS
3126 ROBERTS AVE
CULVER CITY CA 90232-7415

M0117967

\$ AMOUNT ENCLOSED

PLEASE INDICATE ANY CHANGE TO ADDRESS OR TELEPHONE BELOW OR VISIT WWW.CIRCUITCITYREWARDS.COM
Street Address Home Telephone
City/State/Zip Business Telephone

NCE SUMMARY

as Balance \$1,495.89
payments and Credits \$1,781.13
ash Advances \$0.00
urchases/Adjustments \$2,955.45
NANCE CHARGES \$82.37
ew Balance \$2,752.68

ACCOUNT INFORMATION

Statement Closing Date 02/13/06
Days in Billing Cycle 31
New Balance \$2,752.68
Credit Line \$8,000.00
Available Credit \$3,247.32
Available Cash Advance** \$1,800.00

ACCOUNT #

4104140014934039
Payment Due Date 03/10/06
MINIMUM PAYMENT DUE \$110.00

CALL 1-866-523-7587 TO MAKE YOUR
PAYMENT OVER THE PHONE OR
VISIT US ONLINE AT
WWW.CIRCUITCITYREWARDS.COM

SACTION DETAIL

ing	Transaction Date	Reference Number	Transactions	Charges & Credits \$
5	01/12	6013275171011037	SOUPPLANTATION #17 LOS ANGELES CA	11.24
6	01/12	6013349544161658	RALPHS #0284 SF4 CULVER CITY CA	7.80
6	01/14	0397718004987000	CIRCUIT CITY PURCHASE	933.53
			121.30" AND LARGER TVs	
6	01/14	6015730150275328	ROLL N RYE CULVER CITY CA	13.78
6	01/14	6015070214459019	CARY PHOTO LAB CULVER CITY CA	23.59
7	01/16	7083000000000000	CIRCUIT CITY PURCHASE	6.51
			395 COMPUTER MEDIA	
			077 DVD SOFTWARE	
7	01/15	6018118000100172	EAST WIND 4 CULVER CITY CA	19.54
7	01/16	6018020000433553	SUBWAY SANDWICHES # LOS ANGELES CA	5.39
8	01/16	6017207599700305	BURGER KING # 9218 007 LOS ANGELES CA	2.48
8	01/16	6017749054440174	RITE AID STORE 5444 LOS ANGELES CA	3.91
9	01/16	6018138019801123	EL POLLO LOCO 3301 LOS ANGELES CA	7.65
9	01/19	6019882856290191	LA TIMES SUB*137884601S 800-628-4637 CA	107.03
9	01/16	6019018000632878	SUPPET CITY LOS ANGELES CA	14.60
9	01/16	6019690192691108	SMART & FINAL CO. WEST LOS ANGECA	17.21
13	01/19	6020117724010040	DOMINO'S PIZZA #08306 LOS ANGELES CA	27.71
14	01/20	6020023296891108	SAT PROS 828-3992222 CA	420.00
15	01/24	6025002403498443	5 DE MAYO TACOS CULVER CITY CA	6.77
16	01/25	7675300000000000	CIRCUIT CITY PURCHASE	1.82
			395 COMPUTER MEDIA	
15	01/25	2130800000000000	CIRCUIT CITY PURCHASE	82.24
			142 DIGITAL VIDEO	
16	01/25	6025000139810579	HHPONECALLELECTRONICS 800-340-4770 WA	284.02
17	01/25	6026710009432154	DEMYNS INC CULVER CITY CA	7.48
17	01/25	6026380143899162	OFFICE DEPOT #981 CULVER CITY CA	34.64
17	01/25	6026701096820484	HUS SZECHWAN 310-8370252 CA	30.90
18	01/27	6028130283159484	NEW PANDA BUFFET LOS ANGELES CA	20.53

EXPLANATION OF CODES ON REVERSE
TABLE CASH ADVANCE IS INCLUDED IN AVAILABLE CREDIT LIMIT
REVISIONS: * = Payment, ** = Credit

MAIL BILLING AND OTHER INQUIRIES TO:
CHASE CARDMEMBER SERVICE
PO BOX 100045
KENNESAW, GA 30156-9215
See form on reverse side.

CHASE

EXH B



021306 Statement

Customer Name
GARY J DAVIS

Account Number
4104-1400-1493-4039

Page 3 of 3

Payment Tips

- Call 1-866-322-7587 to make your payment over the phone! (A small fee will apply.)
- Mail your payment 7-10 days in advance of your payment due date to allow for mail delivery.
- Checks should be made payable to Chase.
- Write your account number on your check or money order.
- Include the payment coupon with your payment in the envelope provided.
- Written correspondence should be sent to:

CHASE CARDMEMBER SERVICE
PO BOX 100044
KENNESAW, GA 30156-9244

As a Valued Cardmember, you can claim high-quality merchandise from top brands such as Lenox, Harley-Davidson, Cross and many more! Just go to www.rewardcenter.com and enter 157511 where it asks for your certificate number. These products are not available to the general public, so act now!

Redeem your rewards points today and use your Rewards Certificates towards your next purchase at Circuit City. For every 500 points you earn, you'll receive a \$5 Rewards Certificate. Just visit circuitcityrewards.com anytime to check your point balance and redeem for Rewards Certificates.

REWARDS POINTS SUMMARY

Your Circuit City Rewards ID Number is 70021534100

The number of Rewards Points you have earned
(through 02/13/2006) 53,171

The total number of Rewards Points that are available
for you to redeem 1,899

The number of Rewards Points that are pending
in your account 472

FINANCE CHARGE SUMMARY

	Average Daily Balance	Daily Periodic Rate**	Corresponding Annual Percentage Rate	Periodic FINANCE CHARGE	ANNUAL PERCENTAGE RATE	
Purchases A	\$2,312.92	0.0852%	23.79%	\$46.74	24.26%	SEE REVERSE SIDE FOR IMPORTANT INFORMATION
Purchases B	\$1,781.92	0.0845%	23.54%	\$35.63		
Cash Advances C	\$0.00	0.0781%	27.79%	\$0.00		

* PERIODIC RATE MAY VARY FROM MONTH TO MONTH

SEE EXPLANATION OF CODES ON REVERSE
AVAILABLE CASH ADVANCE IS INCLUDED IN AVAILABLE CREDIT LIMIT
ABBREVIATIONS: "p" = Payment, "cr" = Credit
For 24 hour automated information call 1-866-322-7587
Customer Service Advisors are available Monday - Friday 10am - 8pm ET
To report your credit card lost or stolen 24 hours a day call (800) 809-4142
For T.D.D. (Telephone Device for the Hearing Impaired), call (800) 825-1794

MAIL BILLING AND OTHER INQUIRIES TO:
CHASE CARDMEMBER SERVICE
PO BOX 100045
KENNESAW, GA 30156-9245
See form on reverse side.

CHASE



031306 Statement

41041400149340390000119000004497579

CHASE CARDMEMBER SERVICE
PO BOX 100044
KENNESAW, GA 30156-9244

ACCOUNT # 4104 1400 1493 4039
NEW BALANCE \$4,497.57
PAYMENT DUE DATE 04/07/08
MINIMUM PAYMENT DUE \$119.00

CHASE CARDMEMBER SERVICE
PO BOX 94010
PALATINE, IL 60094-4010

MAIL
CHECK
TO:

MAKE CHECKS PAYABLE TO CHASE

\$
AMOUNT ENCLOSED

GARY J DAVIS
3126 ROBERTS AVE
CULVER CITY CA 90232-7415

MO114178

PLEASE INDICATE ANY CHANGE TO ADDRESS OR TELEPHONE BELOW OR VISIT WWW.CIRCUITCITYREWARDS.COM

Street Address Home Telephone
City/State/Zip Business Telephone () e. Debit Here

ACCOUNT SUMMARY

Previous Balance \$2,782.68
Payments and Credits \$2,732.68
Cash Advances \$0.00
Purchases/Adjustments \$4,420.32
FINANCE CHARGES \$77.25
New Balance \$4,497.57

ACCOUNT INFORMATION

Statement Closing Date 03/13/08
Days in Billing Cycle 28
New Balance \$4,497.57
Credit Line \$8,000.00
Available Credit \$1,502.43
Available Cash Advance** \$1,502.43

ACCOUNT # 4104140014934039
Payment Due Date 04/07/08
MINIMUM PAYMENT DUE \$119.00

CALL 1-866-522-7587 TO MAKE YOUR
PAYMENT OVER THE PHONE OR
VISIT US ONLINE AT
WWW.CIRCUITCITYREWARDS.COM

PROMOTIONAL SUMMARY

standing motions	Average Daily Balance	Deferred Average Daily Balance	Daily Periodic Rate***	Corresponding Annual Percentage Rate	Periodic FINANCE CHARGE	Accumulated Deferred Finance Charges	Promotional Payoff Balance	Promotional Ending Date
JCP 22 MOS NWFP		\$218.00	0.0657%	23.90%		\$3.99	\$263.09	01/14/2008

IF ACCOUNT BALANCE MAY CONTAIN PURCHASES THAT REQUIRE A MINIMUM MONTHLY PAYMENT BY THE DUE DATE ON THIS STATEMENT, PLEASE REFER TO THE MINIMUM PAYMENT DUE FOR THAT AMOUNT. ACCUMULATED DEFERRED FINANCE CHARGES WILL BE PAID IF YOUR PROMOTIONAL BALANCE(S) IS PAID IN FULL BY THE PROMOTIONAL END DATE SHOWN IN THE PROMOTIONAL SUMMARY SECTION. THE PROMOTIONAL END DATE MAY DIFFER FROM YOUR DUE DATE.

TRANSACTION DETAIL

string	Transaction Date	Reference Number	Transactions	Charges & Credits
14	02/13	6044296110635675	Purchases	
14	02/12	6044890441473768	BEST BUY 00003939 W HOLLYWOOD CA	1,785.96
14	02/12	6044890441473768	SMART & FINAL CO. WEST LOS ANGECA	17.21
15	02/13	6044890441473768	ASIAN KITCHEN CULVER CITY CA	9.71
15	02/13	6045207596700376	BURGER KING # 2218 Q07 LOS ANGELES CA	3.78
16	02/14	6046960002575133	QUIZNO'S VENCE & ROBERTSCULVER CITY CA	7.35
17	02/15	6047585315218229	PIZZA HUT 07066015 CULVER CITY CA	14.80
20	02/17	6048512022011284	MCMR'S LA CIENEGA #50 LOS ANGELES CA	12.89
20	02/18	6050049000289278	SUPER STAR BUFFET RESTAURCULVER CITY CA	18.75
20	02/18	605038183192827	RALPHS #0284 SF4 CULVER CITY CA	12.75
21	02/20	6051295111972634	BEST BUY 00003939 W HOLLYWOOD CA	8.65
22	02/21	4883500000000000	CIRCUIT CITY CREDIT PURCHASE 142 DIGITAL VIDEO	82.24or

EXPLANATION OF CODES ON REVERSE
TABLE CASH ADVANCE IS INCLUDED IN AVAILABLE CREDIT LIMIT
REVISIONS : "p" = Payment, "a" = Credit
REFER TO INTEREST FREE SPECIAL PURCHASES ON REVERSE.

MAIL BILLING AND OTHER INQUIRIES TO:
CHASE CARDMEMBER SERVICE
PO BOX 100044
KENNESAW, GA 30156-9244
See form on reverse side.

CHASE

EXH C



031308 Statement

Customer Name
GARY J DAVIS

Account Number
4104-1400-1493-4039

Page 2 of 3

Payment Tips

- > Call 1-866-322-7367 to make your payment over the phone! (A small fee will apply.)
- > Mail your payment 7-10 days in advance of your payment due date to allow for mail delivery.
- > Checks should be made payable to Chase.
- > Write your account number on your check or money order.
- > Include the payment coupon with your payment in the envelope provided.
- > Written correspondence should be sent to:

CHASE CARDMEMBER SERVICE
PO BOX 100044
KENNESAW, GA 30156-9244

Posting Date	Transaction Date	Reference Number	Transactions	Charges & Credits
02/22	02/20	8052118000100573	WORK ON FIRE INC LOS ANGELES CA	28.17
02/22	02/20	8052343117291564	COMPUBA/0000 GUYS #740 LOS ANGELES CA	161.54
02/22	02/20	8052207598700388	BURGER KING # 9218 Q07 LOS ANGELES CA	2.48
02/23	02/21	8053364323115341	KFC 2810052 28100529 CULVER CITY CA	4.85
02/23	02/21	80538899004697000	CIRCUIT CITY CREDIT PURCHASE	933.53
			121 30" AND LARGER TV'S	
02/24	02/23	8054000594427855	TWIX/PVR/296" MAGAZINE P&H 877-813-0001 NY	2.00
02/24	02/23	8055470096300020	TASTE OF INDIA - C CULVER CITY CA	14.27
02/27	02/22	8055138011473500	EZ NEW WEB LAUNDROMAT CULVER CITY CA	5.45
02/27	02/23	8055880551481334	SMART & FINAL CO. WEST LOS ANGELES CA	42.10
02/27	02/24	8056288298800186	PAPA JOHN'S PIZZA #2380 LOS ANGELES CA	19.73
02/27	02/24	8056288298800476	PAPA JOHN'S PIZZA #2380 LOS ANGELES CA	2.00
02/28	02/26	8056101912692422	HOP #783 LOS ANGELES CA	12.97
02/28	02/27	8056123385012788	GARY'S MEDITERRANEAN R. LOS ANGELES CA	17.70
03/01	02/27	8059783000102064	JITE #0283 00002831 LOS ANGELES CA	2.15
03/01	02/27	8059783000102064	HUS SZCHWAN LOS ANGELES CA	22.64
03/01	02/27	8059207598700437	BURGER KING # 9218 Q07 LOS ANGELES CA	2.48
03/03	03/02	8061000257188383	XM "SATELLITE RADIO 800-XMRADIO OC	18.84
03/06	03/03	0211022004959000	CIRCUIT CITY PURCHASE	2,000.00
			128 PLASMA TV	
			127 MOUNTS	
03/09	03/07	8067197310861034	PANCA EXPRESS 00008189 CULVER CITY CA	6.32
03/09	03/07	8067388799783653	RALPH'S #0088 SF4 CULVER CITY CA	29.43
03/10	03/07	8069442545100024	INDUSTRY CAFE AND CULVER CITY CA	9.75
03/10	03/09	8069293015400299	KRISTINA'S ITALIAN LOS ANGELES CA	16.27
03/13	03/09	8069398348919784	AUTOZONE #8433 LOS ANGELES CA	4.32
03/13	03/10	8069398348919784	RALPH'S #0088 SF4 CULVER CITY CA	3.86
03/13	03/10	8069200079900237	2020 VIDEO #12 LOS ANGELES CA	12.99
03/13	03/10	8070295111993272	BEST BUY 00001792 CULVER CITY CA	39.05
03/13	03/10	8070295111993272	BEST BUY 00001792 CULVER CITY CA	40.56
03/13	03/10	8070116340010813	BALA FRESH 10142 CULVER CITY CA	7.63
03/13	03/11	8071503108450086	BESTBUYCOM 88904009 885-BESTBUY MN	20.54
03/13	03/12	8072120726208791	NEW PANCA BUFFET LOS ANGELES CA	10.80
03/13	03/13		PURCHASE "FINANCE CHARGE"	77.25
			Payments/Credits	
03/08	03/04	8065001000000010	ONLINE PMT RCVD-THANK YOU	1,006.00py
03/07	03/06	8066001000000019	ONLINE PMT RCVD-THANK YOU	736.91py

IMPORTANT INFORMATION

ATTENTION: IF YOUR ACCOUNT IS IN DISPUTE FOR \$36.43, THIS AMOUNT HAS NOT BEEN INCLUDED IN THE FINANCE CHARGE OR MINIMUM PAYMENT CALCULATIONS.

EXPLANATION OF CODES ON REVERSE
AVAILABLE CASH ADVANCE IS INCLUDED IN AVAILABLE CREDIT LIMIT
REVISIONS: "P" = Payment, "C" = Credit
REFER TO INTEREST FREE SPECIAL PURCHASES ON REVERSE.

MAIL BILLING AND OTHER INQUIRIES TO:
CHASE CARDMEMBER SERVICE
PO BOX 100045
KENNESAW, GA 30156-9245
See form on reverse side.

CHASE



031306 Statement

Customer Name
GARY J DAVIS

Account Number
4104-1400-1493-4038

Page 3 of 3

Payment Tips

- ▶ Call 1-866-522-7587 to make your payment over the phone! (A small fee will apply.)
- ▶ Mail your payment 7-10 days in advance of your payment due date to allow for mail delivery.
- ▶ Checks should be made payable to Chase.
- ▶ Write your account number on your check or money order.
- ▶ Include the payment coupon with your payment in the envelope provided.
- ▶ Written correspondence should be sent to:

CHASE CARDMEMBER SERVICE
PO BOX 100044
KENNESAW, GA 30156-9244

Use your Circuit City credit card and take advantage of special financing promotions available at your local Circuit City stores!

As a Valued Cardmember, you can claim high-quality merchandise from top brands such as Lenox, Harley-Davidson, Crose and many more! Just go to www.rewardcenter.com and enter 157511 where it asks for your certificate number. These products are not available to the general public, so act now!

Redeem your rewards points today and use your Rewards Certificates towards your next purchase at Circuit City. For every 500 points you earn, you'll receive a \$5 Rewards Certificate. Just visit circuitcityrewards.com anytime to check your point balance and redeem for Rewards Certificates.

REWARDS POINTS SUMMARY

Your Circuit City Rewards ID Number is 70021534100

The number of Rewards Points you have earned (through 03/10/2006) 50,421

The total number of Rewards Points that are available for you to redeem 1,780

The number of Rewards Points that are pending in your account -2,369

FINANCE CHARGE SUMMARY

*	Average Daily Balance	Daily Periodic Rate**	Corresponding Annual Percentage Rate	Periodic Finance Charge	ANNUAL PERCENTAGE RATE	
Purchases A	\$4,232.35	0.0652%	23.79%	\$77.25	22.45%	SEE REVERSE SIDE FOR IMPORTANT INFORMATION
Purchases B	\$0.00	0.0652%	23.79%	\$0.00		
Cash Advances C	\$0.00	0.0761%	27.79%	\$0.00		

PERIODIC RATE MAY VARY FROM MONTH TO MONTH

EXPLANATION OF CODES ON REVERSE
*AVAILABLE CASH ADVANCE IS INCLUDED IN AVAILABLE CREDIT LIMIT
**EXPLANATION: "D" = Payment, "C" = Credit
24 hour automated information call 1-866-522-7587
Customer Service Advisors are available Monday - Friday 10am - 8pm ET
report your credit card lost or stolen 24 hours a day call (800) 999-4142
T.D.D. (Telephone Device for the Hearing Impaired), call (800) 925-1784
REFER TO INTEREST FREE SPECIAL PURCHASES ON REVERSE

MAIL, BILLING AND OTHER INQUIRIES TO:
CHASE CARDMEMBER SERVICE
PO BOX 100044
KENNESAW, GA 30156-9244
See form on reverse side.

CHASE

Exhibit 2

FILED COPY

2006 AUG -1 PM 3:45

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

1 STROOCK & STROOCK & LAVAN LLP
JULIA B. STRICKLAND (State Bar No. 83013)
2 STEPHEN J. NEWMAN (State Bar No. 181570)
DAVID W. MOON (State Bar No. 197711)
3 NANCY M. LEE (State Bar No. 232708)
2029 Century Park East, Suite 1800
4 Los Angeles, California 90067-3086
Telephone: 310-556-5800
5 Facsimile: 310-556-5959
Email: lacalendar@stroock.com

6 Attorneys for Defendant
7 CHASE BANK USA, N.A.

8 ATTORNEY AT LAW
Peter E. Glick, Esq. (State Bar No. 127979)
9 400 Capitol Mall, Suite 1100
Sacramento, CA 95814
10 Telephone: 916-558-6182
Facsimile: 916-448-2434
11 Email: pglick@pglick.com

12 Attorney for Defendant
13 CIRCUIT CITY STORES, INC.

14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 GARY DAVIS, an individual, on behalf
of himself, and as PRIVATE
17 ATTORNEY GENERAL, and on behalf
of all others similarly situated

18 Plaintiff,

19 v.

20 CHASE BANK U.S.A., N.A., a
21 Delaware corporation; CIRCUIT CITY
STORES, INC., a Virginia corporation;
22 and DOES 1 through 50, inclusive,

23 Defendants.

Case No.

NOTICE OF REMOVAL

EP0V.06 4:04

DEPT. PMA

**TO THE UNITED STATES DISTRICT COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA:**

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1331, 1332, 1367, 1441, 1446, 1453 and the Class Action Fairness Act of 2005 ("CAFA"), Pub. L. 109-2, § 1(a), 119 Stat. 4 (Feb. 18, 2005) (codified as amended in scattered sections of 28 U.S.C.), defendants Chase Bank USA, N.A. ("Chase") and Circuit City Stores, Inc. ("Circuit City") (together, "Defendants"), hereby remove the action entitled Gary Davis v. Chase Bank U.S.A., N.A., et al., Los Angeles County Superior Court Case No. BC354564 (the "Action"), to the United States District Court for the Central District of California, on the following grounds:

The Removal Is Timely

1. Plaintiff Gary Davis ("Plaintiff") served the Summons and Complaint in the Action on the Defendants on July 3, 2006. The Complaint was the first pleading received by Defendants, through service or otherwise, setting forth the claim for relief upon which the Action is based. This Notice of Removal has been filed within the thirty-day timeframe and is therefore timely under 28 U.S.C. § 1446(b). A true and correct copy of the Complaint in this Action is attached hereto as Exhibit A.

This Court Has Removal Jurisdiction Under CAFA

2. This Court has original jurisdiction over this Action pursuant to 28 U.S.C. § 1332(d), and hence this Action is properly removable pursuant to 28 U.S.C. § 1453(b), because:

a. Diversity of citizenship exists. Under CAFA, diversity is satisfied when "any member of a class of plaintiffs is a citizen of a State different from any defendant" 28 U.S.C. § 1332(d)(2)(A). Chase is a national bank located in Delaware and therefore is a citizen of Delaware. See 28 U.S.C. § 1348 (national bank is a citizen of the state in which it is "located"); Wachovia Bank, N.A. v. Schmidt, III, 126 S. Ct. 941, 952, 163 L. Ed. 2d 797 (2006) (holding that a national bank is "located," for diversity jurisdiction purposes, in the state designated

1 in its articles of association as its main office). Circuit City is a Virginia corporation
2 with its principal place of business in Richmond, Virginia, and therefore is a citizen
3 of Virginia. Plaintiff is a resident of Los Angeles, California, and a citizen of
4 California. (Compl. ¶ 2.)

5 b. This Action is a "class action." A "class action," as defined by
6 CAFA, is "any civil action filed under rule 23 of the Federal Rules of Civil
7 Procedure or similar state statute or rule of judicial procedure authorizing an action
8 to be brought by 1 or more representative persons as a class action." 28 U.S.C.
9 §§ 1332(d)(1)(B), 1453(a). Plaintiff alleges that the Action is brought on behalf of a
10 putative class consisting of:

11 All persons who, in the past four years, used their Circuit
12 City Rewards Card to

13 (a) make a Promotional Purchase in California;

14 (b) had made the minimum payment, or greater payment on
15 their prior statement closing balance ("Payment"); and

16 (c) were assessed a finance charge on their prior balance
17 without Chase having applied that Payment to their prior
18 balance because Chase Bank applied the payment to the
19 Promotional Purchase rather than to the prior balance.

20 (Compl. ¶ 11.) Class actions are permitted under California law pursuant to
21 California Code of Civil Procedure section 382 and California Civil Code section
22 1781.

23 c. The amount in controversy is satisfied. The amount in
24 controversy under CAFA is satisfied "if the matter in controversy exceeds the sum or
25 value of \$5,000,000, exclusive of interest and costs." 28 U.S.C. § 1332(d)(2). For
26 purposes of determining the amount in controversy in class actions, CAFA expressly
27 requires that "the claims of the individual members shall be aggregated . . ." 28
28 U.S.C. § 1332(d)(6). Plaintiff claims that Chase improperly applied his payment to a

1 promotional balance rather than to his regular balance, resulting in \$77.25 in
2 additional finance charges in March 2006. (Compl. ¶ 25.) Plaintiff claims to have
3 been improperly billed additional finance charges in unstated amounts "on at least
4 two (2) other occasions." (Id. ¶ 27.) Plaintiff alleges that Defendants improperly
5 billed additional finance charges to other class members "in a manner similar, or
6 identical to that of Plaintiff." (Id.) Plaintiff seeks, among other things:
7 (1) compensatory damages (in the amount of the alleged improperly billed finance
8 charges); (2) restitution and disgorgement (of these and other amounts); (3) punitive
9 damages; and (4) an injunction prohibiting Chase from prioritizing the application of
10 payments to promotional balances (thus precluding Chase from collecting the finance
11 charges at issue on all future accounts). (Compl. ¶¶ 45-46, 48, 55-56, 61, 66, 68-70.)
12 Aggregating the claims of Plaintiff and the putative class, the amount in controversy
13 exceeds the sum or value of \$5,000,000. See 28 U.S.C. § 1332(d)(6); see also Hunt
14 v. Washington State Apple Advertising Comm'n, 432 U.S. 333, 347, 97 S. Ct. 2434,
15 53 L. Ed. 2d 383 (1977) ("In actions seeking declaratory or injunctive relief, it is
16 well established that the amount in controversy is measured by the value of the
17 object of the litigation.") (citations omitted); Simmons v. PCR Technology, 209 F.
18 Supp. 2d 1029, 1033 (N.D. Cal. 2002) (holding that the amount in controversy may
19 include punitive damages).

Removal By Chase and Circuit City Is Proper

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21 3. CAFA allows for the removal of class actions to federal court in
22 accordance with 28 U.S.C. § 1446, "except that such action may be removed by any
23 defendant without the consent of all defendants." 28 U.S.C. § 1453(b). Accordingly,
24 Chase and Circuit City are permitted to file this Notice of Removal without the
25 joinder or consent of any other defendant. Nevertheless, all known defendants have
26 joined in this removal.

Notice Has Been Effectuated

4. A copy of this Notice of Removal is being concurrently filed with the Superior Court of the State of California for the County of Los Angeles and concurrently served on all counsel of record.

Dated: August 1, 2006

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Dated: August 1, 2006

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By:  by permission

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